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09/533,152	03/23/2000	Michael J. Coar	2610-001	1127

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EXAMINER

LUDWIG, MATTHEW J

ART UNIT PAPER NUMBER

2178

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/533,152

Applicant(s)

COAR, MICHAEL J.

Examiner

Matthew J. Ludwig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is responsive to the amendment filed 9/20/05.
2. Claims 1-7, 9-14, and 16-20 are pending in the application. Claims 1, 7, and 13, are independent claims.
3. Claims 1-16 and 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Durst have been withdrawn pursuant to applicant's amendment.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. **Claims 1, 7, and 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

In reference to independent claims 1, 7, and 13, the claims recite the limitation 'objects having the *same unique* identifier'. The language seems to be contradictory by stating the word 'same' followed by the word 'unique'. The examiner believes the applicant should consider choosing one or the other in order to define what is being stored within the claims.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-7, 9-14, and 16, are rejected under 35 U.S.C. 102(e) as being anticipated by Burke USPN 6,026,377 filed (12/4/1998).**

**In reference to independent claim 1, Burke teaches:**

An output of the retail space management system is a three-dimensional description of the store space, including product descriptions, shelf and product sizes and locations in three spatial dimensions, and product category locations. The products are organized in the picture by category as they would appear on a shelf in an actual store (compare to “*creating an electronic version of an object useful in conducting the transaction*”). See column 5, lines 1-35.

In response to a selection of a product category, the data file for the selected product category is accessed from store database. A three-dimensional model of each shelf and product, and the arrangement of the shelves and products for the selected product is generated. (compare to “*associating information about the object with the object*”). See column 7, 60-67.

Research data is also accumulated and stored during the processing of consumer actions. For each action taken by the consumer, a date and time stamp, an indication of the action taken, and an indication of the product affected may be stored (compare to “*assigning a unique transaction identifier to the object to associate the object and the information about the object with the transaction*”). See column 11, lines 50-67.

The last limitation of the claim seems to be contradictory in the chosen claim language. More specifically, the language states ‘storing the object with other objects having the *same unique* transaction identifier’. Burke provides the storing of products or objects under a specific

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category. The storing of products under a single category, as illustrated in figure 8, is inherently taught by the Burke reference and allows the user to look at products (cereals) and easily select all products needed.

**In reference to dependent claim 2, Burke teaches:**

Each purchase, or each time a product is removed from the consumer shopping cart the process can be stored as an event which may have some marketing research significance. The number of products purchased, their frequency over time and the ordering of choices provides insight into the purchasing behavior of the consumer. See column 11, lines 60-67.

**In reference to dependent claim 3, Burke teaches:**

It is possible to provide an effect in the display when moving an object on and off the shelf or into the shopping cart to give the appearance of actual movement of the product. See column 11, lines 30-49.

**In reference to dependent claim 4, Burke teaches:**

For each action taken by the consumer, a *date and time stamp*, an indication of the action taken, and an indication of the product affected may be stored. See column 11, lines 30-35.

**In reference to dependent claim 5, Burke teaches:**

With the simulated store setting, consumers can perform a number of functions that mirror actual shopping behavior. The can view entire shelf sets or displays, select individual product packages to view in a close-up mode, view side panels ingredients, or purchase an item. See column 12, lines 1-14.

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**In reference to dependent claim 6, Burke teaches:**

An indication of the purchased product, along with its original location on the shelf, is stored on a stack in memory of the multi-server computer. The UPC code, and an indication of quantity and price may be stored on the stack. See column 10, lines 1-18.

**In reference to claims 7, 9-12, the claims reflect the system comprising instructions used for performing the methods as claimed in 1-6. In further view of the following statement the claims are rejected under similar rationale.**

**In reference to independent claim 13, Burke teaches:**

An output of the retail space management system is a three-dimensional description of the store space, including product descriptions, shelf and product sizes and locations in three spatial dimensions, and product category locations. The products are organized in the picture by category as they would appear on a shelf in an actual store (compare to “*creating an electronic version of an object useful in conducting the transaction*”). See column 5, lines 1-35.

In response to a selection of a product category, the data file for the selected product category is accessed from store database. A three-dimensional model of each shelf and product, and the arrangement of the shelves and products for the selected product is generated. (compare to “*associating information about the object with the object*”). See column 7, 60-67.

Research data is also accumulated and stored during the processing of consumer actions. For each action taken by the consumer, a date and time stamp, an indication of the action taken, and an indication of the product affected may be stored (compare to “*assigning a unique transaction identifier to the object to associate the object and the information about the object with the transaction*”). See column 11, lines 50-67.

The last limitation of the claim seems to be contradictory in the chosen claim language. More specifically, the language states ‘storing the object with other objects having the *same unique* transaction identifier’. Burke provides the storing of products or objects under a specific category. The storing of products under a single category, as illustrated in figure 8, is inherently taught by the Burke reference and allows the user to look at products (cereals) and easily select all products needed.

An indication of the purchased product, along with its original location on the shelf, is stored on a stack in memory of the multi-server computer (compare to “extracting routing information associated with the object from the information about the object”). See column 10, lines 1-20.

If the consumer has touched the shopping cart, the most recently purchased item in the shopping cart is removed from the shopping cart and returned to the shelf. The movement of the product from the shopping cart to the shelf is performed simply by moving the object within the three-dimensional model created by the three-dimensional modeling system (compare to “*routing the object to a recipient designated in the routing information for processing the object and receiving from the designated recipient a processed object*”). See column 10, lines 45-55.

**In reference to dependent claim 14, Burke teaches:**

Because the front image is typically the only image seen while the product is in the shopping cart, the images of other faces are removed from the object. See column 10, lines 15-30.

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**In reference to dependent claims 16, Burke teaches:**

Each purchase, or each time a product is removed from the consumer shopping cart the process can be stored as an event which may have some marketing research significance. The number of products purchased, their frequency over time and the ordering of choices provides insight into the purchasing behavior of the consumer. See column 11, lines 60-67.

***Allowable Subject Matter***

8. Claims 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-7, 9-14, and 16-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Marks	USPN 6,876,977	filed (07/27/2000)
Hess et al.,	USPN 6,732,161	filed (11/09/1999)
Rackson et al.,	USPN 6,415,270	filed (11/15/1999)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Ludwig whose telephone number is 571-272-4127. The examiner can normally be reached on 9:00am-6:00pm.

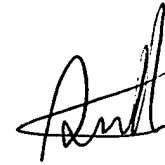


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML  
December 11, 2005



**STEPHEN HONG**  
**SUPPLEMENTARY PATENT EXAMINER**